

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS (BOSTON)

CHARLES BROWN, Individually and On Behalf of	:	1:05-cv-10400 (RCL)
All Others Similarly Situated,	:	
Plaintiff,	:	
vs.	:	
BIOGEN IDEC, INC., WILLIAM RASTETTER, and	:	
JAMES MULLEN,	:	
Defendants.	:	
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CARY GRILL, Individually and On Behalf of All	:	
Others Similarly Situated,	:	
Plaintiff,	:	1:05-cv-10453 (RCL)
vs.	:	
BIOGEN IDEC, INC., WILLIAM RASTETTER and	:	
JAMES MULLEN,	:	
Defendants.	:	
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ROCHELLE LOBEL, Individually and On Behalf of	:	
All Others Similarly Situated,	:	
Plaintiff,	:	
vs.	:	
BIOGEN IDEC, INC., WILLIAM RASTETTER and	:	
JAMES MULLEN,	:	
Defendants.	:	

**DECLARATION OF NANCY FREEMAN GANS IN FURTHER SUPPORT OF THE
MOTION OF THE BIOGEN INSTITUTIONAL INVESTOR GROUP FOR
CONSOLIDATION, APPOINTMENT OF LEAD PLAINTIFF, AND APPROVAL OF
LEAD PLAINTIFF'S SELECTION OF CO-LEAD COUNSEL AND LIAISON COUNSEL
AND IN OPPOSITION TO THE OTHER MOTIONS**

I, Nancy Freeman Gans, under penalties of perjury, hereby declare:

1. I am a partner of the law firm of Moulton & Gans, P.C. ("Moulton & Gans"). I submit this declaration in support of the motion of the Biogen Institutional Investor Group for Consolidation, Appointment As Lead Plaintiff, And Approval Of Lead Plaintiff's Selection Of Co-Lead Counsel and Liaison Counsel.

2. Attached hereto as Exhibit A is a true and correct copy of certification of Horatio Capital, LLC.

3. Attached hereto as Exhibit B is a true and accurate chart analyzing and presenting the financial interest of the Biogen Institutional Investor Group.

4. Attached hereto as Exhibit C is an electronic receipt showing that the motion of the London Pension Fund Authority and National Elevator Industry Pension Fund was filed on 7:19 p.m. Daylight Savings Time.

5. Attached as Exhibit D is a true and correct copy of the lead plaintiff order in the action *In re Vaxgen Sec. Litig.* No. C-03-1129 (JSW) (N.D. Cal. Apr. 14, 2004).

Dated: May 16, 2005
Boston, Mass.

/s/ Nancy Freeman Gans
Nancy Freeman Gans

CERTIFICATE OF SERVICE

I, Andre Rado, hereby certify that a true copy of the above document was served upon the attorney of record for each party.

/s/ Andre Rado
Andre Rado

CERTIFICATION

Jeffrey A. Wolfson declares the following as to the claims asserted, or to be asserted, under the federal securities laws:

1. My name is Jeffrey A. Wolfson and I am a Principal Member of Horatio Capital, LLC ("Horatio").

2. I have reviewed a copy of the complaint filed in the action, captioned *Brown v. Biogen Idec Inc., et. al.*, Civil Action No. 05-cv-10400 (U.S. Dist. Ct., D. Mass.).

3. I am duly authorized to pursue appointment of Horatio as a representative party in this matter and to seek approval of Horatio's selection of lead and liaison counsel. Horatio is willing to serve as a representative party in this action and it recognizes its duties as such, including monitoring and directing the litigation, and providing testimony at deposition and trial, if necessary.

4. Horatio did not acquire any of the relevant securities at the direction of plaintiff's counsel or in order to participate in any private action under the federal securities laws.

5. Horatio will not accept any payment for serving as a representative party beyond its *pro rata* share of any recovery, except reasonable costs and expenses, such as lost wages and travel expenses, directly related to the class representation, as ordered or approved by the court pursuant to law.

6. Horatio has not sought to serve or served as a representative party for a class in any action under the federal securities laws within the past three years.

7. Horatio's transactions during the proposed class period in Biogen Idec, Inc. securities, that are the subject of this litigation, are described in the chart attached hereto as Schedule A.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information and belief.

Executed this 2nd day of May 2005

By:

Jeffrey A. Wolfson
Principal Member
Horatio Capital, LLC

Hold price: \$37.0870

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES		
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT					
	03/17/04	595	52.4435	31,203.87	01/03/05	1,361	66.8627	91,000.13	(766)	(28,408.68)	31,387.58		
	03/31/04	1,058	56.0420	59,292.44	01/24/05	2,352	64.1365	150,849.15	(1,294)	(47,990.64)	43,566.07		
	04/02/04	535	57.7719	30,907.98	01/24/05	4,572	64.1365	293,232.29	(4,037)	(149,720.40)	112,603.91		
	04/02/04	187	57.7719	10,803.35	01/24/05	11,871	64.1365	761,364.93	(11,684)	(433,325.04)	317,236.54		
	06/03/04	1,004	62.2717	62,520.76	01/24/05	498	64.1365	31,940.00	506	18,766.05	(11,814.72)		
	06/03/04	1,222	62.2717	76,095.98	01/24/05	561	64.1366	35,980.61	661	24,514.54	(15,600.83)		
	06/16/04	744	59.3938	44,188.95	01/24/05	1,613	64.1365	103,452.25	(869)	(32,228.64)	27,034.66		
	07/07/04	61	62.1520	3,791.27	01/27/05	259	63.7902	16,521.65	(198)	(7,343.24)	5,387.15		
	08/27/04	2,023	60.4715	122,333.87	01/27/05	504	63.7901	32,150.23	1,519	56,335.22	(33,848.42)		
	08/27/04	4,502	60.4715	272,242.74	01/27/05	1,307	63.7901	83,373.72	3,195	118,493.11	(70,375.91)		
	08/27/04	10,392	60.4715	628,419.94	01/27/05	55	63.7902	3,508.46	10,337	383,368.79	(241,542.69)		
	08/27/04	395	60.4715	23,886.24	01/27/05	62	63.7902	3,954.99	333	12,349.99	(7,581.26)		
	08/27/04	537	60.4715	32,473.20	01/27/05	177	63.7901	11,290.85	360	13,351.34	(7,831.01)		
	08/27/04	1,329	60.4715	80,366.64	04/08/05	72	37.7476	2,717.83	1,257	46,618.42	(31,030.40)		
	09/03/04	792	61.4505	48,668.79					792	29,372.94	(19,295.85)		
	10/06/04	2,899	61.8728	179,369.28					2,899	107,515.34	(71,853.94)		
	12/08/04	863	64.1834	55,390.25					863	32,006.12	(23,384.13)		
	12/08/04	152	63.3032	9,622.09					152	5,637.23	(3,984.86)		
	12/08/04	983	64.1834	63,092.26					983	36,456.57	(26,635.69)		
	12/08/04	8,387	64.1834	538,305.97					8,387	311,049.05	(227,256.92)		
	12/20/04	320	65.1887	20,860.38					320	11,867.85	(8,992.53)		
	12/20/04	1,573	65.1887	102,541.80					1,573	58,337.92	(44,203.88)		
	12/20/04	44	65.1886	2,868.30					44	1,631.83	(1,236.47)		
	12/20/04	70	65.1887	4,563.21					70	2,596.09	(1,967.12)		
	12/20/04	208	65.1887	13,559.25					208	7,714.11	(5,845.14)		
	01/10/05	1,091	66.5792	72,637.88					1,091	40,461.97	(32,175.91)		
	01/10/05	1,924	66.5792	128,098.32					1,924	71,355.48	(56,742.84)		
	01/10/05	5,378	66.5792	358,062.79					5,378	199,454.13	(158,608.66)		
	01/10/05	198	66.5791	13,182.67					198	7,343.24	(5,839.44)		
	01/10/05	223	66.5791	14,847.15					223	8,270.41	(6,576.74)		
	01/10/05	803	66.5792	53,463.07					803	29,780.90	(23,682.17)		
	01/18/05	1,393	67.3836	93,865.38					1,393	51,662.25	(42,203.13)		
	01/18/05	2,708	67.3836	182,474.83					2,708	100,431.72	(82,043.11)		
	01/18/05	7,031	67.3836	473,774.21					7,031	260,759.02	(213,015.19)		
	01/18/05	295	67.3836	19,878.17					295	10,940.68	(8,937.49)		
	01/18/05	332	67.3836	22,371.36					332	12,312.90	(10,058.46)		
	01/18/05	955	67.3836	64,351.36					955	35,418.13	(28,933.23)		
	02/02/05	385	64.6831	24,902.99					385	14,278.51	(10,624.48)		
Folksam Asset Management Totals		88,723		5,492,535.49					48,249	3,133,776.81	40,474	1,501,061.08	(857,697.61)
Third Millennium Trading LLP	pre-class	38,000			02/18/04	1,000	35.0000	35,000.00					
					02/19/04	800	35.0000	28,000.00					
					02/20/04	3,700	35.0000	129,500.00					
					02/20/04	25,500	35.0000	892,500.00					
					03/18/04	100	53.2500	5,325.00					
					03/18/04	608	53.2500	32,376.00					
					03/18/04	292	53.2600	15,551.92					
					03/18/04	100	53.2500	5,325.00					
					03/18/04	1,900	53.2500	101,175.00					
					03/18/04	200	53.2500	10,650.00					
					03/18/04	100	53.2500	5,325.00					
					03/18/04	8	53.2500	426.00					

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	03/18/04	300	53.2500	15,975.00							
	03/18/04	2,092	53.2500	111,399.00							
	03/18/04	200	53.2500	10,650.00							
	03/18/04	100	53.3100	5,331.00							
	03/18/04	900	53.3100	47,979.00							
	03/18/04	100	53.2500	5,325.00							
		Total		38,000							
	03/19/04	25,000	45.0000	1,125,000.00	04/16/04	25,000	50.0000	1,250,000.00	0	0.00	125,000.00
	04/05/04	25	57.4500	1,436.25	05/27/04	100	62.9800	6,298.00	(75)	(2,781.53)	2,080.22
	04/05/04	1,000	57.4500	57,450.00	05/27/04	300	62.9600	18,888.00	700	25,960.93	(12,601.07)
	04/05/04	975	57.4500	56,013.75	05/27/04	1,200	62.9600	75,552.00	(225)	(8,344.59)	11,193.66
	04/16/04	1,000	59.9000	59,900.00	05/27/04	1,324	62.9600	83,359.04	(324)	(12,016.20)	11,442.84
	04/16/04	100	59.8900	5,989.00	05/27/04	1,800	62.9800	113,364.00	(1,700)	(63,047.98)	44,327.02
	04/16/04	100	59.8800	5,988.00	05/27/04	100	62.9800	6,298.00	0	0.00	310.00
	04/16/04	3,800	59.9000	227,620.00	05/27/04	176	62.9600	11,080.96	3,624	134,403.45	(82,135.59)
	05/21/04	4,700	60.0000	282,000.00	06/14/04	400	59.9500	23,980.00	4,300	159,474.30	(98,545.70)
	05/21/04	300	60.0000	18,000.00	06/14/04	94	59.9500	5,635.30	206	7,639.93	(4,724.77)
	05/21/04	25,000	60.0000	1,500,000.00	06/14/04	100	59.9500	5,995.00	24,900	923,467.43	(570,537.57)
	09/22/04	100	59.9100	5,991.00	06/14/04	100	59.9600	5,996.00	0	0.00	5.00
	09/22/04	200	59.8900	11,978.00	06/14/04	600	59.9600	35,976.00	(400)	(14,834.82)	9,163.18
	09/22/04	300	59.9100	17,973.00	06/14/04	100	59.9600	5,996.00	200	7,417.41	(4,559.59)
	09/22/04	100	59.9100	5,991.00	06/14/04	6	59.9600	359.76	94	3,486.18	(2,145.06)
	09/22/04	100	59.8900	5,989.00	06/14/04	100	59.9500	5,995.00	0	0.00	6.00
	09/22/04	200	59.8900	11,978.00	06/14/04	200	59.9500	11,990.00	0	0.00	12.00
	09/22/04	500	59.8900	29,945.00	06/14/04	100	59.9500	5,995.00	400	14,834.82	(9,115.18)
	09/22/04	100	59.9100	5,991.00	06/14/04	100	59.9600	5,996.00	0	0.00	5.00
	09/22/04	200	59.9200	11,984.00	06/14/04	800	59.9500	47,960.00	(600)	(22,252.23)	13,723.77
	09/22/04	1,800	59.9200	107,856.00	06/14/04	800	59.9500	47,960.00	1,000	37,087.05	(22,808.95)
	09/22/04	100	59.9100	5,991.00	06/14/04	100	59.9500	5,995.00	0	0.00	4.00
	10/22/04	500	57.4800	28,740.00	06/14/04	1,100	59.9600	65,956.00	(600)	(22,252.23)	14,963.77
	10/22/04	100	57.5200	5,752.00	06/14/04	100	59.9600	5,996.00	0	0.00	244.00
	10/22/04	200	57.5200	11,504.00	06/14/04	200	59.9500	11,990.00	0	0.00	486.00
	10/22/04	500	57.4800	28,740.00	06/18/04	500	58.3800	29,190.00	0	0.00	450.00
	10/22/04	100	57.4800	5,748.00	06/18/04	200	58.3800	11,676.00	(100)	(3,708.70)	2,219.30
	10/22/04	500	57.4800	28,740.00	06/18/04	1,500	58.3800	87,570.00	(1,000)	(37,087.05)	21,742.95
	10/22/04	4,900	57.5500	281,995.00	06/18/04	100	58.8800	5,888.00	4,800	178,017.82	(98,089.18)
	10/22/04	200	57.6100	11,522.00	06/18/04	200	58.8800	11,776.00	0	0.00	254.00
	10/22/04	500	57.6100	28,805.00	06/18/04	62	58.3800	3,619.56	438	16,244.13	(8,941.31)
	10/22/04	100	57.5500	5,755.00	06/18/04	200	58.5400	11,708.00	(100)	(3,708.70)	2,244.30
	10/22/04	500	57.5500	28,775.00	06/18/04	140	58.5400	8,195.60	360	13,351.34	(7,228.06)
	10/22/04	100	57.5500	5,755.00	06/18/04	4,660	58.5400	272,796.40	(4,560)	(169,116.93)	97,924.47
	10/22/04	100	57.5100	5,751.00	06/18/04	206	58.7800	12,108.68	(106)	(3,931.23)	2,426.45
	10/22/04	100	57.5500	5,755.00	06/18/04	600	58.7800	35,268.00	(500)	(18,543.52)	10,969.48
	10/22/04	1,100	57.5400	63,294.00	06/18/04	100	58.7700	5,877.00	1,000	37,087.05	(20,329.95)
	10/22/04	100	57.6100	5,761.00	06/18/04	1,000	58.7800	58,780.00	(900)	(33,378.34)	19,640.66
	10/22/04	50	57.9000	2,895.00	06/18/04	1,000	58.7500	58,750.00	(950)	(35,232.69)	20,622.31
	10/22/04	50	57.9000	2,895.00	06/18/04	400	58.7800	23,512.00	(350)	(12,980.47)	7,636.53
	10/22/04	400	57.8900	23,156.00	06/18/04	436	58.7700	25,623.72	(36)	(1,335.13)	1,132.59
	10/22/04	42	57.6300	2,420.46	06/18/04	100	58.7700	5,877.00	(58)	(2,151.05)	1,305.49
	10/22/04	100	57.6100	5,761.00	06/18/04	100	58.7700	5,877.00	0	0.00	116.00
	10/22/04	100	57.9100	5,791.00	06/18/04	400	58.3800	23,352.00	(300)	(11,126.11)	6,434.89
	10/22/04	500	57.9000	28,950.00	06/18/04	500	58.3800	29,190.00	0	0.00	240.00
	10/22/04	400	57.9000	23,160.00	06/18/04	638	58.3800	37,246.44	(238)	(8,826.72)	5,259.72

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	10/22/04	2,200	57.9000	127,380.00	06/18/04	300	58.3800	17,514.00	1,900	70,465.39	(39,400.61)
	10/22/04	800	57.9000	46,320.00	06/18/04	500	58.3800	29,190.00	300	11,126.11	(6,003.89)
	10/22/04	200	57.9000	11,580.00	06/18/04	400	58.3800	23,352.00	(200)	(7,417.41)	4,354.59
	10/22/04	400	57.5500	23,020.00	06/18/04	800	58.8800	47,104.00	(400)	(14,834.82)	9,249.18
	10/22/04	500	57.5400	28,770.00	06/18/04	300	58.8800	17,664.00	200	7,417.41	(3,688.59)
	10/22/04	300	57.9000	17,370.00	06/18/04	136	58.8800	8,007.68	164	6,082.28	(3,280.04)
	10/22/04	100	57.5400	5,754.00	06/18/04	300	58.8800	17,664.00	(200)	(7,417.41)	4,492.59
	10/22/04	100	57.5400	5,754.00	06/18/04	1,700	58.8800	100,096.00	(1,600)	(59,339.27)	35,002.73
	10/22/04	100	57.6100	5,761.00	06/18/04	800	58.8800	47,104.00	(700)	(25,960.93)	15,382.07
	10/22/04	100	57.4800	5,748.00	06/18/04	88	58.8800	5,181.44	12	445.04	(121.52)
	10/22/04	100	57.4600	5,746.00	06/18/04	300	58.8800	17,664.00	(200)	(7,417.41)	4,500.59
	10/22/04	100	57.4800	5,748.00	06/18/04	100	58.8800	5,888.00	0	0.00	140.00
	10/22/04	100	57.5200	5,752.00	06/18/04	100	58.8800	5,888.00	0	0.00	136.00
	10/22/04	100	57.4600	5,746.00	06/18/04	200	58.8800	11,776.00	(100)	(3,708.70)	2,321.30
	10/22/04	100	57.4800	5,748.00	06/18/04	176	58.8800	10,362.88	(76)	(2,818.62)	1,796.26
	10/22/04	500	57.5400	28,770.00	06/18/04	100	58.8800	5,888.00	400	14,834.82	(8,047.18)
	10/22/04	100	57.4800	5,748.00	06/18/04	300	58.8800	17,664.00	(200)	(7,417.41)	4,498.59
	10/22/04	100	57.4800	5,748.00	06/18/04	300	58.8800	17,664.00	(200)	(7,417.41)	4,498.59
	10/22/04	100	57.5400	5,754.00	06/18/04	58	58.7500	3,407.50	42	1,557.66	(788.84)
	10/22/04	500	57.5400	28,770.00	09/03/04	23	60.7400	1,397.02	477	17,690.52	(9,682.46)
	10/22/04	500	57.5400	28,770.00	09/13/04	8,300	62.3400	517,422.00	(7,800)	(289,278.95)	199,373.05
	10/25/04	100	56.1000	5,610.00	09/16/04	200	61.5900	12,318.00	(100)	(3,708.70)	2,999.30
	10/25/04	54	56.0200	3,025.08	09/16/04	500	61.6000	30,800.00	(446)	(16,540.82)	11,234.10
	10/25/04	348	56.0800	19,915.84	09/16/04	2,800	61.6000	172,480.00	(2,452)	(90,937.44)	62,026.72
	10/25/04	500	56.0800	28,040.00	09/16/04	500	61.5900	30,795.00	0	0.00	2,755.00
	10/25/04	500	56.0200	28,010.00	09/16/04	200	61.5900	12,318.00	300	11,126.11	(4,565.89)
	10/25/04	400	56.0200	22,408.00	09/16/04	59	61.6900	3,639.71	341	12,646.68	(6,121.61)
	10/25/04	100	56.0200	5,602.00	09/16/04	400	61.6300	24,652.00	(300)	(11,126.11)	7,923.89
	10/25/04	100	56.1000	5,610.00	09/16/04	100	61.6000	6,160.00	0	0.00	550.00
	10/25/04	100	56.1000	5,610.00	09/16/04	100	61.6900	6,169.00	0	0.00	559.00
	10/25/04	1,900	56.1000	106,590.00	09/16/04	4,900	61.6900	302,281.00	(3,000)	(111,261.14)	84,429.86
	10/25/04	2,200	56.0200	123,244.00	09/16/04	100	61.6900	6,169.00	2,100	77,882.80	(39,192.20)
	10/25/04	200	56.0900	11,218.00	09/16/04	36	61.5900	2,217.24	164	6,082.28	(2,918.48)
	10/25/04	1,452	56.1000	81,457.20	09/16/04	39	61.6300	2,403.57	1,413	52,404.00	(26,649.63)
	10/25/04	900	56.0200	50,418.00	09/16/04	100	61.7000	6,170.00	800	29,669.64	(14,578.36)
	10/25/04	100	56.0900	5,609.00	09/16/04	300	61.6100	18,483.00	(200)	(7,417.41)	5,456.59
	10/25/04	200	56.0200	11,204.00	09/16/04	100	61.5900	6,159.00	100	3,708.70	(1,336.30)
	10/25/04	100	56.0200	5,602.00	09/16/04	364	61.5900	22,418.76	(264)	(9,790.98)	7,025.78
	10/25/04	500	56.0200	28,010.00	09/16/04	500	61.6100	30,805.00	0	0.00	2,795.00
	10/25/04	200	56.0800	11,216.00	09/16/04	200	61.6100	12,322.00	0	0.00	1,106.00
	10/26/04	300	56.3500	16,905.00	09/16/04	1,400	61.6100	86,254.00	(1,100)	(40,795.75)	28,553.25
	10/26/04	100	56.3500	5,635.00	09/16/04	184	61.7000	11,352.80	(84)	(3,115.31)	2,602.49
	10/26/04	100	56.3500	5,635.00	09/16/04	500	61.6100	30,805.00	(400)	(14,834.82)	10,335.18
	10/26/04	100	56.3500	5,635.00	09/16/04	100	61.6100	6,161.00	0	0.00	526.00
	10/26/04	500	56.3400	28,170.00	09/16/04	200	61.7200	12,344.00	300	11,126.11	(4,699.89)
	10/26/04	1,000	56.3400	56,340.00	09/16/04	500	61.7100	30,855.00	500	18,543.52	(6,941.48)
	10/26/04	850	56.3400	47,889.00	09/16/04	100	61.7100	6,171.00	750	27,815.28	(13,902.72)
	10/26/04	100	56.3400	5,634.00	09/16/04	100	61.7200	6,172.00	0	0.00	538.00
	10/26/04	200	56.3400	11,268.00	09/16/04	500	61.7200	30,860.00	(300)	(11,126.11)	8,465.89
	10/26/04	500	56.3500	28,175.00	09/16/04	2,800	61.7200	172,816.00	(2,300)	(85,300.20)	59,340.80
	10/26/04	500	56.6600	28,330.00	09/16/04	1,300	61.6100	80,093.00	(800)	(29,669.64)	22,093.36
	10/26/04	364	56.6600	20,624.24	09/16/04	100	61.6100	6,161.00	264	9,790.98	(4,672.26)
	10/26/04	179	56.3400	10,084.86	09/16/04	600	61.6100	36,966.00	(421)	(15,613.65)	11,267.49
	10/26/04	100	56.6500	5,665.00	09/23/04	100	59.2800	5,928.00	0	0.00	263.00

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	10/26/04	100	56.6600	5,666.00	09/23/04	22	59.2800	1,304.16	78	2,892.79	(1,469.05)
	10/26/04	100	56.6600	5,666.00	09/23/04	409	59.2800	24,245.52	(309)	(11,459.90)	7,119.62
	10/26/04	100	56.6400	5,664.00	09/23/04	1,469	59.2800	87,082.32	(1,369)	(50,772.17)	30,646.15
	10/26/04	100	56.6400	5,664.00	10/08/04	200	58.1400	11,628.00	(100)	(3,708.70)	2,255.30
	10/26/04	100	56.6500	5,665.00	10/08/04	104	58.1400	6,046.56	(4)	(148.35)	233.21
	10/26/04	100	56.6500	5,665.00	10/08/04	100	58.1400	5,814.00	0	0.00	149.00
	10/26/04	900	56.6500	50,985.00	10/08/04	100	58.1500	5,815.00	800	29,669.64	(15,500.36)
	10/26/04	100	56.3400	5,634.00	10/08/04	500	58.1500	29,075.00	(400)	(14,834.82)	8,606.18
	10/26/04	36	56.6400	2,039.04	10/08/04	100	58.1500	5,815.00	(64)	(2,373.57)	1,402.39
	10/26/04	1,500	56.6400	84,960.00	10/08/04	200	58.1500	11,630.00	1,300	48,213.16	(25,116.84)
	10/27/04	1,000	58.2500	58,250.00	10/08/04	200	58.1400	11,628.00	800	29,669.64	(16,952.36)
	10/27/04	100	58.2500	5,825.00	10/08/04	200	58.1500	11,630.00	(100)	(3,708.70)	2,096.30
	10/27/04	500	58.2500	29,125.00	10/08/04	500	58.1500	29,075.00	0	0.00	(50.00)
	10/27/04	100	58.2500	5,825.00	10/08/04	100	58.1500	5,815.00	0	0.00	(10.00)
	10/27/04	500	58.2500	29,125.00	10/08/04	100	58.1400	5,814.00	400	14,834.82	(8,476.18)
	10/27/04	1,300	58.2500	75,725.00	10/08/04	100	58.1400	5,814.00	1,200	44,504.45	(25,406.55)
	10/27/04	500	58.2500	29,125.00	10/08/04	100	58.1300	5,813.00	400	14,834.82	(8,477.18)
	10/27/04	1,800	58.2500	104,850.00	10/08/04	196	58.1300	11,393.48	1,604	59,487.62	(33,968.90)
	10/27/04	400	58.2500	23,300.00	10/08/04	200	58.1500	11,630.00	200	7,417.41	(4,252.59)
	10/27/04	500	58.2500	29,125.00	11/08/04	100	60.5000	6,050.00	400	14,834.82	(8,240.18)
	10/27/04	300	58.2500	17,475.00	11/08/04	100	60.5000	6,050.00	200	7,417.41	(4,007.59)
	10/28/04	700	60.1500	42,105.00	11/08/04	1,000	60.4600	60,460.00	(300)	(11,126.11)	7,228.89
	10/28/04	3,619	60.1500	217,682.85	11/08/04	100	60.5000	6,050.00	3,519	130,509.31	(81,123.54)
	10/28/04	200	60.1500	12,030.00	11/08/04	800	60.4600	48,368.00	(600)	(22,252.23)	14,085.77
	10/28/04	100	60.1500	6,015.00	11/08/04	400	60.4600	24,184.00	(300)	(11,126.11)	7,042.89
	10/28/04	100	60.1500	6,015.00	11/17/04	2,700	56.8000	153,360.00	(2,600)	(96,426.32)	50,918.68
	10/28/04	200	60.1500	12,030.00	11/17/04	800	56.7800	45,424.00	(600)	(22,252.23)	11,141.77
	10/28/04	100	60.1500	6,015.00	11/17/04	300	56.7800	17,034.00	(200)	(7,417.41)	3,601.59
	10/28/04	400	60.1500	24,060.00	11/17/04	100	56.8100	5,681.00	300	11,126.11	(7,252.89)
	10/28/04	400	60.1400	24,056.00	11/17/04	500	56.8100	28,405.00	(100)	(3,708.70)	640.30
	10/28/04	100	60.1500	6,015.00	11/17/04	1,600	56.7800	90,848.00	(1,500)	(55,630.57)	29,202.43
	10/28/04	1,000	60.1500	60,150.00	11/17/04	400	56.7800	22,712.00	600	22,252.23	(15,185.77)
	10/28/04	500	60.1500	30,075.00	11/17/04	400	56.7800	22,712.00	100	3,708.70	(3,654.30)
	10/28/04	1,000	60.1500	60,150.00	11/17/04	200	56.8100	11,362.00	800	29,669.64	(19,118.36)
	10/28/04	300	60.1500	18,045.00	11/19/04	21,600	60.0000	1,296,000.00	(21,300)	(789,954.07)	488,000.93
	10/28/04	81	60.1500	4,872.15	11/22/04	2,125	56.2900	119,616.25	(2,044)	(75,805.92)	38,938.18
	10/28/04	200	60.1500	12,030.00	11/22/04	100	56.2900	5,629.00	100	3,708.70	(2,692.30)
	11/05/04	100	61.4000	6,140.00	11/22/04	200	56.2900	11,258.00	(100)	(3,708.70)	1,409.30
	11/05/04	100	61.4500	6,145.00	11/22/04	140	56.2900	7,880.60	(40)	(1,483.48)	252.12
	11/05/04	100	61.4300	6,143.00	11/22/04	100	56.2900	5,629.00	0	0.00	(514.00)
	11/05/04	100	61.4700	6,147.00	11/22/04	2,235	56.2900	125,808.15	(2,135)	(79,180.84)	40,480.31
	11/05/04	100	61.4700	6,147.00	11/22/04	100	56.2900	5,629.00	0	0.00	(518.00)
	11/05/04	500	61.4000	30,700.00	01/21/05	50,000	60.0000	3,000,000.00	(49,500)	(1,835,808.75)	1,133,491.25
	11/05/04	100	61.3600	6,136.00	01/28/05	3,900	62.5600	243,984.00	(3,800)	(140,930.77)	96,917.23
	11/05/04	100	61.3600	6,136.00	02/18/05	25,000	60.0000	1,500,000.00	(24,900)	(923,467.43)	570,396.57
	11/05/04	2,087	61.4500	128,246.15	02/18/05	12,500	60.0000	750,000.00	(10,413)	(386,187.40)	235,566.45
	11/05/04	100	61.4000	6,140.00	02/18/05	12,500	60.0000	750,000.00	(12,400)	(459,879.36)	283,980.64
	11/05/04	800	61.4100	49,128.00					800	29,669.64	(19,458.36)
	11/05/04	200	61.4300	12,286.00					200	7,417.41	(4,868.59)
	11/05/04	500	61.3600	30,680.00					500	18,543.52	(12,136.48)
	11/05/04	100	61.3600	6,136.00					100	3,708.70	(2,427.30)
	11/05/04	83	61.2900	5,087.07					83	3,078.22	(2,008.85)
	11/05/04	100	61.4200	6,142.00					100	3,708.70	(2,433.30)
	11/05/04	31	61.4400	1,904.64					31	1,149.70	(754.94)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	11/05/04	200	61.4500	12,290.00					200	7,417.41	(4,872.59)
	11/05/04	100	61.4000	6,140.00					100	3,708.70	(2,431.30)
	11/05/04	769	61.4500	47,255.05					769	28,519.94	(18,735.11)
	11/05/04	100	61.4200	6,142.00					100	3,708.70	(2,433.30)
	11/05/04	100	61.3600	6,136.00					100	3,708.70	(2,427.30)
	11/05/04	200	61.4500	12,290.00					200	7,417.41	(4,872.59)
	11/05/04	500	61.4000	30,700.00					500	18,543.52	(12,156.48)
	11/05/04	200	61.3300	12,266.00					200	7,417.41	(4,848.59)
	11/05/04	100	61.3100	6,131.00					100	3,708.70	(2,422.30)
	11/05/04	500	61.3500	30,675.00					500	18,543.52	(12,131.48)
	11/05/04	100	61.2900	6,129.00					100	3,708.70	(2,420.30)
	11/05/04	100	61.3300	6,133.00					100	3,708.70	(2,424.30)
	11/05/04	200	61.3600	12,272.00					200	7,417.41	(4,854.59)
	11/05/04	200	61.4600	12,292.00					200	7,417.41	(4,874.59)
	11/05/04	100	61.2900	6,129.00					100	3,708.70	(2,420.30)
	11/05/04	100	61.3300	6,133.00					100	3,708.70	(2,424.30)
	11/05/04	200	61.3600	12,272.00					200	7,417.41	(4,854.59)
	11/05/04	417	61.4300	25,616.31					417	15,465.30	(10,151.01)
	11/05/04	100	61.2900	6,129.00					100	3,708.70	(2,420.30)
	11/05/04	500	61.2900	30,645.00					500	18,543.52	(12,101.48)
	11/08/04	700	61.3900	42,973.00					700	25,960.93	(17,012.07)
	11/08/04	100	61.3900	6,139.00					100	3,708.70	(2,430.30)
	11/08/04	700	61.2000	42,840.00					700	25,960.93	(16,879.07)
	11/08/04	102	61.0500	6,227.10					102	3,782.88	(2,444.22)
	11/08/04	200	61.0500	12,210.00					200	7,417.41	(4,792.59)
	11/08/04	700	61.3900	42,973.00					700	25,960.93	(17,012.07)
	11/08/04	1,900	61.2000	116,280.00					1,900	70,465.39	(45,814.61)
	11/08/04	1,900	61.2000	116,280.00					1,900	70,465.39	(45,814.61)
	11/08/04	100	61.0500	6,105.00					100	3,708.70	(2,396.30)
	11/08/04	617	61.2100	37,766.57					617	22,882.71	(14,883.86)
	11/08/04	83	61.2100	5,080.43					83	3,078.22	(2,002.21)
	11/08/04	1,200	61.2100	73,452.00					1,200	44,504.45	(28,947.55)
	11/08/04	500	61.2100	30,605.00					500	18,543.52	(12,061.48)
	11/08/04	100	61.0500	6,105.00					100	3,708.70	(2,396.30)
	11/08/04	100	61.0500	6,105.00					100	3,708.70	(2,396.30)
	11/08/04	100	61.2000	6,120.00					100	3,708.70	(2,411.30)
	11/08/04	1,900	61.0500	115,995.00					1,900	70,465.39	(45,529.61)
	11/08/04	100	61.0500	6,105.00					100	3,708.70	(2,396.30)
	11/08/04	400	61.0500	24,420.00					400	14,834.82	(9,585.18)
	11/08/04	500	61.2000	30,600.00					500	18,543.52	(12,056.48)
	11/08/04	100	61.2000	6,120.00					100	3,708.70	(2,411.30)
	11/08/04	100	61.0500	6,105.00					100	3,708.70	(2,396.30)
	11/08/04	600	61.2000	36,720.00					600	22,252.23	(14,467.77)
	11/08/04	398	61.3900	24,433.22					398	14,760.64	(9,672.58)
	11/08/04	600	61.2000	36,720.00					600	22,252.23	(14,467.77)
	11/08/04	100	61.2100	6,121.00					100	3,708.70	(2,412.30)
	11/08/04	500	61.2000	30,600.00					500	18,543.52	(12,056.48)
	11/08/04	600	61.2000	36,720.00					600	22,252.23	(14,467.77)
	11/11/04	2,729	60.3000	164,558.70					2,729	101,210.55	(63,348.15)
	11/11/04	271	60.3000	16,341.30					271	10,050.59	(6,290.71)
	11/24/04	200	58.4000	11,680.00					200	7,417.41	(4,262.59)
	11/24/04	100	58.4300	5,843.00					100	3,708.70	(2,134.30)
	11/24/04	100	58.4200	5,842.00					100	3,708.70	(2,133.30)
	11/24/04	100	58.4000	5,840.00					100	3,708.70	(2,131.30)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	11/24/04	100	58.4000	5,840.00					100	3,708.70	(2,131.30)
	11/24/04	200	58.4300	11,686.00					200	7,417.41	(4,268.59)
	11/24/04	1,000	58.4200	58,420.00					1,000	37,087.05	(21,332.95)
	11/24/04	200	58.4200	11,684.00					200	7,417.41	(4,266.59)
	11/24/04	100	58.4300	5,843.00					100	3,708.70	(2,134.30)
	11/24/04	200	58.4300	11,686.00					200	7,417.41	(4,268.59)
	11/24/04	200	58.4300	11,686.00					200	7,417.41	(4,268.59)
	11/24/04	300	58.4100	17,523.00					300	11,126.11	(6,396.89)
	11/24/04	200	58.4300	11,686.00					200	7,417.41	(4,268.59)
	11/24/04	1,000	58.4300	58,430.00					1,000	37,087.05	(21,342.95)
	11/24/04	33	58.4100	1,927.53					33	1,223.87	(703.66)
	11/24/04	100	58.4100	5,841.00					100	3,708.70	(2,132.30)
	11/24/04	100	58.4100	5,841.00					100	3,708.70	(2,132.30)
	11/24/04	100	58.4100	5,841.00					100	3,708.70	(2,132.30)
	11/24/04	300	58.4100	17,523.00					300	11,126.11	(6,396.89)
	11/24/04	1,700	58.4100	99,297.00					1,700	63,047.98	(36,249.02)
	11/24/04	400	58.4300	23,372.00					400	14,834.82	(8,537.18)
	11/24/04	100	58.4300	5,843.00					100	3,708.70	(2,134.30)
	11/24/04	100	58.4000	5,840.00					100	3,708.70	(2,131.30)
	11/24/04	23	58.4100	1,343.43					23	853.00	(490.43)
	11/24/04	100	58.4300	5,843.00					100	3,708.70	(2,134.30)
	11/24/04	100	58.4300	5,843.00					100	3,708.70	(2,134.30)
	11/24/04	400	58.6000	23,440.00					400	14,834.82	(8,605.18)
	11/24/04	300	58.4100	17,523.00					300	11,126.11	(6,396.89)
	11/24/04	544	58.4100	31,775.04					544	20,175.35	(11,599.69)
	11/24/04	600	58.6000	35,160.00					600	22,252.23	(12,907.77)
	11/24/04	800	58.6000	46,880.00					800	29,669.64	(17,210.36)
	11/24/04	100	58.6000	5,860.00					100	3,708.70	(2,151.30)
	11/24/04	100	58.6000	5,860.00					100	3,708.70	(2,151.30)
	11/24/04	100	58.6100	5,861.00					100	3,708.70	(2,152.30)
	11/24/04	500	58.6000	29,300.00					500	18,543.52	(10,756.48)
	11/24/04	300	58.6000	17,580.00					300	11,126.11	(6,453.89)
	11/24/04	100	58.6000	5,860.00					100	3,708.70	(2,151.30)
	12/02/04	200	61.8100	12,362.00					200	7,417.41	(4,944.59)
	12/02/04	962	61.8100	59,461.22					962	35,677.74	(23,783.48)
	12/02/04	38	61.8100	2,348.78					38	1,409.31	(939.47)
	12/02/04	300	61.8100	18,543.00					300	11,126.11	(7,416.89)
	12/02/04	100	61.8100	6,181.00					100	3,708.70	(2,472.30)
	12/02/04	100	61.7200	6,172.00					100	3,708.70	(2,463.30)
	12/02/04	300	61.8100	18,543.00					300	11,126.11	(7,416.89)
	12/02/04	100	61.8100	6,181.00					100	3,708.70	(2,472.30)
	12/02/04	100	61.7200	6,172.00					100	3,708.70	(2,463.30)
	12/02/04	300	61.7200	18,516.00					300	11,126.11	(7,389.89)
	12/02/04	100	61.7200	6,172.00					100	3,708.70	(2,463.30)
	12/02/04	800	61.6300	49,304.00					800	29,669.64	(19,634.36)
	12/02/04	100	61.7000	6,170.00					100	3,708.70	(2,461.30)
	12/02/04	89	61.7000	5,491.30					89	3,300.75	(2,190.55)
	12/02/04	100	61.6300	6,163.00					100	3,708.70	(2,454.30)
	12/02/04	150	61.6300	9,244.50					150	5,563.06	(3,681.44)
	12/02/04	100	61.6300	6,163.00					100	3,708.70	(2,454.30)
	12/02/04	400	61.6300	24,652.00					400	14,834.82	(9,817.18)
	12/02/04	400	61.6300	24,652.00					400	14,834.82	(9,817.18)
	12/02/04	100	61.6300	6,163.00					100	3,708.70	(2,454.30)
	12/02/04	1,152	61.4200	70,755.84					1,152	42,724.28	(28,031.56)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	12/02/04	179	61.4200	10,994.18					179	6,638.58	(4,355.60)
	12/02/04	321	61.4200	19,715.82					321	11,904.94	(7,810.88)
	12/02/04	72	61.6200	4,436.64					72	2,670.27	(1,766.37)
	12/02/04	100	61.6300	6,163.00					100	3,708.70	(2,454.30)
	12/02/04	848	61.4200	52,084.16					848	31,449.81	(20,634.35)
	12/02/04	600	61.6300	36,978.00					600	22,252.23	(14,725.77)
	12/02/04	10	61.6300	616.30					10	370.87	(245.43)
	12/02/04	77	61.6300	4,745.51					77	2,855.70	(1,889.81)
	12/02/04	200	61.6300	12,326.00					200	7,417.41	(4,908.59)
	12/02/04	100	61.6300	6,163.00					100	3,708.70	(2,454.30)
	12/02/04	100	61.6300	6,163.00					100	3,708.70	(2,454.30)
	12/02/04	127	61.6300	7,827.01					127	4,710.05	(3,116.96)
	12/02/04	200	61.6300	12,326.00					200	7,417.41	(4,908.59)
	12/02/04	486	61.6300	29,952.18					486	18,024.30	(11,927.88)
	12/02/04	600	61.5700	36,942.00					600	22,252.23	(14,689.77)
	12/03/04	200	61.8700	12,374.00					200	7,417.41	(4,956.59)
	12/03/04	500	61.8800	30,940.00					500	18,543.52	(12,396.48)
	12/03/04	665	61.9400	41,190.10					665	24,662.89	(16,527.21)
	12/03/04	1,535	61.9400	95,077.90					1,535	56,928.61	(38,149.29)
	12/03/04	500	61.8800	30,940.00					500	18,543.52	(12,396.48)
	12/03/04	100	61.7100	6,171.00					100	3,708.70	(2,462.30)
	12/03/04	600	61.7700	37,062.00					600	22,252.23	(14,809.77)
	12/03/04	500	61.7800	30,890.00					500	18,543.52	(12,346.48)
	12/03/04	500	61.8700	30,935.00					500	18,543.52	(12,391.48)
	12/03/04	100	61.8700	6,187.00					100	3,708.70	(2,478.30)
	12/03/04	150	61.8700	9,280.50					150	5,563.06	(3,717.44)
	12/03/04	194	61.8600	12,000.84					194	7,194.89	(4,805.95)
	12/03/04	100	61.8700	6,187.00					100	3,708.70	(2,478.30)
	12/03/04	1,453	61.8700	89,897.11					1,453	53,887.48	(36,009.63)
	12/03/04	200	61.9100	12,382.00					200	7,417.41	(4,964.59)
	12/03/04	300	61.9000	18,570.00					300	11,126.11	(7,443.89)
	12/03/04	200	61.9200	12,384.00					200	7,417.41	(4,966.59)
	12/03/04	100	61.8700	6,187.00					100	3,708.70	(2,478.30)
	12/03/04	129	61.9000	7,985.10					129	4,784.23	(3,200.87)
	12/03/04	371	61.9000	22,964.90					371	13,759.29	(9,205.61)
	12/03/04	100	61.7100	6,171.00					100	3,708.70	(2,462.30)
	12/03/04	500	61.7100	30,855.00					500	18,543.52	(12,311.48)
	12/03/04	200	61.7100	12,342.00					200	7,417.41	(4,924.59)
	12/03/04	500	61.7100	30,855.00					500	18,543.52	(12,311.48)
	12/03/04	3	61.8700	185.61					3	111.26	(74.35)
	12/03/04	300	61.7100	18,513.00					300	11,126.11	(7,386.89)
	12/08/04	200	64.3800	12,876.00					200	7,417.41	(5,458.59)
	12/08/04	473	64.3800	30,451.74					473	17,542.17	(12,909.57)
	12/08/04	100	64.3800	6,438.00					100	3,708.70	(2,729.30)
	12/08/04	4,389	64.3700	282,519.93					4,389	162,775.04	(119,744.89)
	12/08/04	100	64.3400	6,434.00					100	3,708.70	(2,725.30)
	12/08/04	100	64.3400	6,434.00					100	3,708.70	(2,725.30)
	12/08/04	400	64.3800	25,752.00					400	14,834.82	(10,917.18)
	12/08/04	200	64.3800	12,876.00					200	7,417.41	(5,458.59)
	12/08/04	800	64.3800	51,504.00					800	29,669.64	(21,834.36)
	12/08/04	423	64.3700	27,228.51					423	15,687.82	(11,540.69)
	12/08/04	100	64.3700	6,437.00					100	3,708.70	(2,728.30)
	12/08/04	389	64.3700	25,039.93					389	14,426.86	(10,613.07)
	12/08/04	1,000	64.3800	64,380.00					1,000	37,087.05	(27,292.95)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	12/08/04	300	64.3800	19,314.00					300	11,126.11	(8,187.89)
	12/08/04	289	64.3800	18,605.82					289	10,718.16	(7,887.66)
	12/08/04	500	64.3800	32,190.00					500	18,543.52	(13,646.48)
	12/08/04	1,100	64.3800	70,818.00					1,100	40,795.75	(30,022.25)
	12/08/04	100	64.3800	6,438.00					100	3,708.70	(2,729.30)
	12/08/04	600	64.3800	38,628.00					600	22,252.23	(16,375.77)
	12/08/04	100	64.3800	6,438.00					100	3,708.70	(2,729.30)
	12/08/04	23	64.3800	1,480.74					23	853.00	(627.74)
	12/08/04	27	64.3800	1,738.26					27	1,001.35	(736.91)
	12/08/04	1,000	64.3800	64,380.00					1,000	37,087.05	(27,292.95)
	12/08/04	100	64.3800	6,438.00					100	3,708.70	(2,729.30)
	12/08/04	500	64.3600	32,180.00					500	18,543.52	(13,636.48)
	12/08/04	100	64.3600	6,436.00					100	3,708.70	(2,727.30)
	12/08/04	1,200	64.3700	77,244.00					1,200	44,504.45	(32,739.55)
	12/08/04	500	64.3700	32,185.00					500	18,543.52	(13,641.48)
	12/08/04	77	64.3700	4,956.49					77	2,855.70	(2,100.79)
	12/08/04	100	64.3500	6,435.00					100	3,708.70	(2,726.30)
	12/08/04	100	64.3400	6,434.00					100	3,708.70	(2,725.30)
	12/08/04	1,211	64.3700	77,952.07					1,211	44,912.41	(33,039.66)
	12/08/04	400	64.3700	25,748.00					400	14,834.82	(10,913.18)
	12/08/04	100	64.3800	6,438.00					100	3,708.70	(2,729.30)
	12/08/04	61	64.3800	3,927.18					61	2,262.31	(1,664.87)
	12/08/04	100	64.3400	6,434.00					100	3,708.70	(2,725.30)
	12/08/04	1,827	64.3900	117,640.53					1,827	67,758.03	(49,882.50)
	12/08/04	200	64.3700	12,874.00					200	7,417.41	(5,456.59)
	12/08/04	11	64.3700	708.07					11	407.96	(300.11)
	12/08/04	200	64.3800	12,876.00					200	7,417.41	(5,458.59)
	12/08/04	200	64.3800	12,876.00					200	7,417.41	(5,458.59)
	12/08/04	100	64.3800	6,438.00					100	3,708.70	(2,729.30)
	12/08/04	200	64.3800	12,876.00					200	7,417.41	(5,458.59)
	12/13/04	5,400	65.8500	355,590.00					5,400	200,270.05	(155,319.95)
	12/27/04	3,000	66.3900	199,170.00					3,000	111,261.14	(87,908.86)
	12/27/04	1,000	66.3900	66,390.00					1,000	37,087.05	(29,302.95)
	12/28/04	100	67.3600	6,736.00					100	3,708.70	(3,027.30)
	12/28/04	2,100	67.3600	141,456.00					2,100	77,882.80	(63,573.20)
	12/28/04	100	67.3600	6,736.00					100	3,708.70	(3,027.30)
	12/28/04	600	67.3600	40,416.00					600	22,252.23	(18,163.77)
	12/28/04	200	67.3400	13,468.00					200	7,417.41	(6,050.59)
	12/28/04	500	67.3600	33,680.00					500	18,543.52	(15,136.48)
	12/28/04	300	67.3600	20,208.00					300	11,126.11	(9,081.89)
	12/28/04	100	67.3300	6,733.00					100	3,708.70	(3,024.30)
	12/29/04	535	67.8000	36,273.00					535	19,841.57	(16,431.43)
	12/29/04	100	67.8000	6,780.00					100	3,708.70	(3,071.30)
	12/29/04	100	67.8000	6,780.00					100	3,708.70	(3,071.30)
	12/29/04	100	67.8000	6,780.00					100	3,708.70	(3,071.30)
	12/29/04	200	67.7700	13,554.00					200	7,417.41	(6,136.59)
	12/29/04	500	67.8000	33,900.00					500	18,543.52	(15,356.48)
	12/29/04	400	67.8000	27,120.00					400	14,834.82	(12,285.18)
	12/29/04	500	67.7700	33,885.00					500	18,543.52	(15,341.48)
	12/29/04	500	67.7700	33,885.00					500	18,543.52	(15,341.48)
	12/29/04	200	67.7700	33,885.00					200	7,417.41	(6,142.59)
	12/29/04	200	67.8000	13,560.00					200	7,417.41	(6,142.59)
	12/29/04	400	67.7700	27,108.00					400	14,834.82	(12,273.18)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	12/29/04	465	67.8000	31,527.00					465	17,245.48	(14,281.52)
	12/29/04	300	67.8000	20,340.00					300	11,126.11	(9,213.89)
	01/07/05	200	66.1500	13,230.00					200	7,417.41	(5,812.59)
	01/07/05	100	66.1500	6,615.00					100	3,708.70	(2,906.30)
	01/07/05	400	66.1500	26,460.00					400	14,834.82	(11,625.18)
	01/07/05	16	66.1300	1,058.08					16	593.39	(464.69)
	01/07/05	200	66.1500	13,230.00					200	7,417.41	(5,812.59)
	01/07/05	400	66.1500	26,460.00					400	14,834.82	(11,625.18)
	01/07/05	311	66.1100	20,560.21					311	11,534.07	(9,026.14)
	01/07/05	11	66.1100	727.21					11	407.96	(319.25)
	01/07/05	100	66.1200	6,612.00					100	3,708.70	(2,903.30)
	01/07/05	82	66.1100	5,421.02					82	3,041.14	(2,379.88)
	01/07/05	92	66.1100	6,082.12					92	3,412.01	(2,670.11)
	01/07/05	600	66.1100	39,666.00					600	22,252.23	(17,413.77)
	01/07/05	300	66.1600	19,848.00					300	11,126.11	(8,721.89)
	01/07/05	100	66.1600	6,616.00					100	3,708.70	(2,907.30)
	01/07/05	100	66.1700	6,617.00					100	3,708.70	(2,908.30)
	01/07/05	400	66.1500	26,460.00					400	14,834.82	(11,625.18)
	01/07/05	100	66.1500	6,615.00					100	3,708.70	(2,906.30)
	01/07/05	300	66.1400	19,842.00					300	11,126.11	(8,715.89)
	01/07/05	100	66.1700	6,617.00					100	3,708.70	(2,908.30)
	01/07/05	84	66.1700	5,558.28					84	3,115.31	(2,442.97)
	01/27/05	21,000	64.0000	1,344,000.00					21,000	778,827.95	(565,172.05)
	01/28/05	42,000	62.5000	2,625,000.00					42,000	1,557,655.91	(1,067,344.09)
	02/09/05	200	65.5200	13,104.00					200	7,417.41	(5,686.59)
	02/09/05	100	65.5200	6,552.00					100	3,708.70	(2,843.30)
	02/09/05	152	65.5000	9,956.00					152	5,637.23	(4,318.77)
	02/09/05	53	65.4900	3,470.97					53	1,965.61	(1,505.36)
	02/09/05	14	65.4900	916.86					14	519.22	(397.64)
	02/09/05	179	65.5000	11,724.50					179	6,638.58	(5,085.92)
	02/09/05	48	65.5000	3,144.00					48	1,780.18	(1,363.82)
	02/09/05	254	65.4600	16,626.84					254	9,420.11	(7,206.73)
	02/09/05	300	65.4800	19,644.00					300	11,126.11	(8,517.89)
	02/09/05	39	65.5200	2,555.28					39	1,446.39	(1,108.89)
	02/09/05	285	65.5200	18,673.20					285	10,569.81	(8,103.39)
	02/09/05	100	65.5200	6,552.00					100	3,708.70	(2,843.30)
	02/09/05	500	65.4800	32,740.00					500	18,543.52	(14,196.48)
	02/09/05	1,000	65.4600	65,460.00					1,000	37,087.05	(28,372.95)
	02/09/05	100	65.5200	6,552.00					100	3,708.70	(2,843.30)
	02/09/05	300	65.5200	19,656.00					300	11,126.11	(8,529.89)
	02/09/05	76	65.5200	4,979.52					76	2,818.62	(2,160.90)
	02/09/05	500	65.4800	32,740.00					500	18,543.52	(14,196.48)
	02/09/05	100	65.5200	6,552.00					100	3,708.70	(2,843.30)
	02/09/05	100	65.5200	6,552.00					100	3,708.70	(2,843.30)
	02/09/05	1,600	65.5200	104,832.00					1,600	59,339.27	(45,492.73)
	02/14/05	26,300	66.6000	1,751,580.00					26,300	975,389.30	(776,190.70)
	02/22/05	400	65.7000	26,280.00					400	14,834.82	(11,445.18)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	89	65.7000	5,847.30					89	3,300.75	(2,546.55)
	02/22/05	100	65.6900	6,569.00					100	3,708.70	(2,860.30)
	02/22/05	100	65.6900	6,569.00					100	3,708.70	(2,860.30)
	02/22/05	200	65.6900	13,138.00					200	7,417.41	(5,720.59)
	02/22/05	500	65.7000	32,850.00					500	18,543.52	(14,306.48)
	02/22/05	400	65.7000	26,280.00					400	14,834.82	(11,445.18)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	02/22/05	35	65.6900	2,299.15					35	1,298.05	(1,001.10)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	300	65.7000	19,710.00					300	11,126.11	(8,583.89)
	02/22/05	119	65.7000	7,818.30					119	4,413.36	(3,404.94)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	165	65.7000	10,840.50					165	6,119.36	(4,721.14)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	179	65.7000	11,760.30					179	6,638.58	(5,121.72)
	02/22/05	200	65.7000	13,140.00					200	7,417.41	(5,722.59)
	02/22/05	94	65.6500	6,171.10					94	3,486.18	(2,684.92)
	02/22/05	100	65.6500	6,565.00					100	3,708.70	(2,856.30)
	02/22/05	100	65.6500	6,565.00					100	3,708.70	(2,856.30)
	02/22/05	900	65.7000	59,130.00					900	33,378.34	(25,751.66)
	02/22/05	55	65.6500	3,610.75					55	2,039.79	(1,570.96)
	02/22/05	100	65.6500	6,565.00					100	3,708.70	(2,856.30)
	02/22/05	1,696	65.6500	111,342.40					1,696	62,899.63	(48,442.77)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	1,000	65.7000	65,700.00					1,000	37,087.05	(28,612.95)
	02/22/05	83	65.6900	5,452.27					83	3,078.22	(2,374.05)
	02/22/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/22/05	100	65.6400	6,564.00					100	3,708.70	(2,855.30)
	02/22/05	30	65.6900	1,970.70					30	1,112.61	(858.09)
	02/22/05	200	65.6900	13,138.00					200	7,417.41	(5,720.59)
	02/22/05	100	65.6900	6,569.00					100	3,708.70	(2,860.30)
	02/22/05	100	65.6500	6,565.00					100	3,708.70	(2,856.30)
	02/22/05	100	65.6400	6,564.00					100	3,708.70	(2,855.30)
	02/22/05	100	65.6500	6,565.00					100	3,708.70	(2,856.30)
	02/22/05	400	65.6400	26,256.00					400	14,834.82	(11,421.18)
	02/22/05	55	65.6500	3,610.75					55	2,039.79	(1,570.96)
	02/23/05	200	65.6900	13,138.00					200	7,417.41	(5,720.59)
	02/23/05	200	65.6900	13,138.00					200	7,417.41	(5,720.59)
	02/23/05	100	65.7000	6,570.00					100	3,708.70	(2,861.30)
	02/23/05	59	65.6900	3,875.71					59	2,188.14	(1,687.57)
	02/23/05	218	65.6900	14,320.42					218	8,084.98	(6,235.44)
	02/23/05	500	65.6900	32,845.00					500	18,543.52	(14,301.48)
	02/23/05	3,723	65.7000	244,601.10					3,723	138,075.07	(106,526.03)
	02/24/05	500	65.2000	32,600.00					500	18,543.52	(14,056.48)
	02/24/05	100	65.2000	6,520.00					100	3,708.70	(2,811.30)
	02/24/05	500	65.2000	32,600.00					500	18,543.52	(14,056.48)
	02/24/05	200	65.2000	13,040.00					200	7,417.41	(5,622.59)
	02/24/05	100	65.2000	6,520.00					100	3,708.70	(2,811.30)
	02/24/05	100	65.2000	6,520.00					100	3,708.70	(2,811.30)
	02/24/05	1,000	65.2000	65,200.00					1,000	37,087.05	(28,112.95)
	02/24/05	700	65.2000	45,640.00					700	25,960.93	(19,679.07)
	02/24/05	100	65.2000	6,520.00					100	3,708.70	(2,811.30)
	02/24/05	1,560	65.2000	101,712.00					1,560	57,855.79	(43,856.21)
	02/24/05	100	65.2000	6,520.00					100	3,708.70	(2,811.30)

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	02/25/05	500	66.9200	33,460.00					500	18,543.52	(14,916.48)
	02/25/05	1,900	66.9200	127,148.00					1,900	70,465.39	(56,682.61)
	02/25/05	500	66.9200	33,460.00					500	18,543.52	(14,916.48)
	02/25/05	100	66.9200	6,692.00					100	3,708.70	(2,983.30)
Third Millennium Trading LLP Totals		337,679		20,573,839.87		228,205		13,445,292.10	109,474	4,060,067.21	(3,068,480.56)
DEERFIELD BEACH NON UNIFORMED	02/15/05	4,800	67.1802	322,464.96	03/01/05	4,800	39.9550	191,784.00	0	0.00	(130,680.96)
DEERFIELD BEACH NON UNIFORMED Totals		4,800		322,464.96		4,800		191,784.00	0	0.00	(130,680.96)
Plumbers & Pipefitters Local 520	10/06/04	3,300	61.6010	203,283.30	01/31/05	300	65.0000	19,500.00	3,000	111,261.14	(72,522.16)
	10/28/04	600	57.8440	34,706.40	03/22/05	100	38.6471	3,864.71	500	18,543.52	(12,298.17)
	11/03/04	1,540	58.5950	90,236.30	03/31/05	5,040	38.3717	193,393.57	(3,500)	(129,804.66)	(26,647.39)
Plumbers & Pipefitters Local 520 Totals		5,440		328,226.00		5,440		216,758.27	0	0.00	(111,467.73)
Horatio Capital	12/17/04	60,000	60.0000	3,600,000.00	01/21/05	500	65.0000	32,500.00	59,500	2,206,679.20	(1,360,820.80)
	01/19/05	31	67.5300	2,093.43	02/14/05	48	66.6200	3,197.76	(17)	(630.48)	473.85
	01/19/05	100	67.5300	6,753.00	02/14/05	100	66.5500	6,655.00	0	0.00	(98.00)
	01/19/05	169	67.5300	11,412.57	02/14/05	100	66.5500	6,655.00	69	2,559.01	(2,198.56)
	01/19/05	200	67.5300	13,506.00	02/14/05	100	66.9600	6,696.00	100	3,708.70	(3,101.30)
	02/04/05	1,000	66.8000	66,800.00	02/14/05	100	66.8000	6,680.00	900	33,378.34	(26,741.66)
	02/07/05	38	66.2300	2,516.74	02/14/05	100	66.8000	6,680.00	(62)	(2,299.40)	1,863.86
	02/07/05	43	66.2300	2,847.89	02/14/05	200	66.6800	13,336.00	(157)	(5,822.67)	4,665.44
	02/07/05	100	66.2300	6,623.00	02/14/05	300	66.5500	19,965.00	(200)	(7,417.41)	5,924.59
	02/07/05	100	66.2300	6,623.00	02/14/05	300	66.8000	20,040.00	(200)	(7,417.41)	5,999.59
	02/07/05	219	66.2300	14,504.37	02/14/05	400	66.9600	26,784.00	(181)	(6,712.76)	5,566.87
	02/10/05	100	65.4700	6,547.00	02/14/05	400	66.6800	26,672.00	(300)	(11,126.11)	8,998.89
	02/10/05	100	65.4700	6,547.00	02/14/05	400	66.6800	26,672.00	(300)	(11,126.11)	8,998.89
	02/10/05	300	65.4700	19,641.00	02/14/05	500	66.5500	33,275.00	(200)	(7,417.41)	6,216.59
	02/11/05	11	66.9400	736.34	02/14/05	500	66.9600	33,480.00	(489)	(18,135.57)	14,608.09
	02/11/05	100	66.9400	6,694.00	02/14/05	500	66.7700	33,385.00	(400)	(14,834.82)	11,856.18
	02/11/05	100	66.9400	6,694.00	02/14/05	952	66.6200	63,422.24	(852)	(31,598.16)	25,130.08
	02/11/05	100	66.9400	6,694.00	02/18/05	500	65.0000	32,500.00	(400)	(14,834.82)	10,971.18
	02/11/05	100	66.9400	6,694.00	02/18/05	600	60.0000	36,000.00	(500)	(18,543.52)	10,762.48
	02/11/05	389	66.9400	26,039.66	02/18/05	600	60.0000	36,000.00	(211)	(7,825.37)	2,134.97
	02/11/05	500	66.9400	33,470.00	02/18/05	800	60.0000	48,000.00	(300)	(11,126.11)	3,403.89
	02/11/05	500	66.9400	33,470.00	02/18/05	1,000	60.0000	60,000.00	(500)	(18,543.52)	7,986.48
	02/11/05	800	66.9100	53,528.00	02/18/05	1,000	60.0000	60,000.00	(200)	(7,417.41)	(945.41)
	02/22/05	374	65.6200	24,541.88	02/18/05	1,000	60.0000	60,000.00	(626)	(23,216.49)	12,241.63
	02/22/05	1,626	65.6200	106,698.12	02/18/05	1,000	65.0000	65,000.00	626	23,216.49	(18,481.63)
	02/24/05	17	66.4400	1,129.48	02/18/05	1,100	65.0000	71,500.00	(1,083)	(40,165.27)	30,205.25
	02/24/05	100	66.4400	6,644.00	02/18/05	29,000	60.0000	1,740,000.00	(28,900)	(1,071,815.61)	661,540.39
	02/24/05	240	66.4300	15,943.20	02/22/05	100	65.6700	6,567.00	140	5,192.19	(4,184.01)
	02/24/05	243	66.4000	16,135.20	02/22/05	200	65.6700	13,134.00	43	1,594.74	(1,406.46)
	02/24/05	300	66.4300	19,929.00	02/22/05	300	65.6400	19,692.00	0	0.00	(237.00)
	02/24/05	500	66.4300	33,215.00	02/22/05	400	65.6800	26,272.00	100	3,708.70	(3,234.30)
	02/24/05	600	66.4400	39,864.00	02/22/05	500	65.6400	32,820.00	100	3,708.70	(3,335.30)
	02/25/05	100	66.7700	6,677.00	02/22/05	500	65.6400	32,820.00	(400)	(14,834.82)	11,308.18
	02/25/05	100	66.7500	6,675.00	02/22/05	500	65.6500	32,825.00	(400)	(14,834.82)	11,315.18

PLAINTIFF	PURCHASE TRANSACTIONS				SALES TRANSACTIONS (1)				SHARES HELD	ESTIMATED VALUE (2)	ESTIMATED LOSSES
	DATE	SHARES	COST	PURCHASE AMOUNT	DATE	SHARES	PRICE (3)	SALES AMOUNT			
	02/25/05	100	66.7500	6,675.00	02/22/05	500	65.6500	32,825.00	(400)	(14,834.82)	11,315.18
	02/25/05	200	66.7700	13,354.00	02/22/05	600	65.6400	39,384.00	(400)	(14,834.82)	11,195.18
	02/25/05	600	66.7500	40,050.00	02/22/05	2,400	65.6400	157,536.00	(1,800)	(66,756.68)	50,729.32
	02/25/05	900	66.7500	60,075.00					900	33,378.34	(26,696.66)
<u>Horatio Capital Totals</u>		71,100		4,338,040.88		48,100		2,968,970.00	23,000	853,002.05	(516,068.83)
<u>Movants Totals</u>		525,142		32,096,692.05		342,194		20,347,580.52	182,948	6,785,000.79	(4,964,110.74)

(1) Sales have been applied on a FIFO basis.

(2) Shares held through the date of this filing have been valued using the average price of \$37.0870 per share.

(3) Shares sold in the 90 days following the class period were valued at the average of the daily closing prices from the end of the class period to the date of the actual sale

Subj: Activity in Case 1:05-cv-10400-RCL Brown v. Biogen Idec Inc. et al "Motion to Consolidate Cases"
Date: 5/2/2005 7:19:47 PM Eastern Daylight Time
From: ECFnotice@mad.uscourts.gov
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United States District Court
District of Massachusetts

Notice of Electronic Filing

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#ident 'rcsid=\\$Header: /ecf/district/server/TextBody,v 3.1 2003-04-25 07:52:35-04 loy Exp \\$'
Case Name: Brown v. Biogen Idec Inc. et al
Case Number: 1:05-cv-10400 <https://ecf.mad.uscourts.gov/cgi-bin/DktRpt.pl?96779>

Document Number: 22

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Docket Text:

MOTION to Consolidate Cases and for Appointment as Lead Plaintiffs and for Approval of Selection of Lead and Liaison Counsel by London Pensions Fund Authority, National Elevator Industry Pension Fund. (Attachments: # (1) Text of Proposed Order Proposed Order)(Hess-Mahan, Theodore)

The following document(s) are associated with this transaction:

Document description: Main Document

Original filename: yes

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1029851931 [Date=5/2/2005] [FileNumber=957536-0]

[805ead32e2319371e8135aeee26110a8f009186ca13ed5bad0ff0f725b1100f2f35fc7cd336e1de

Document description: Text of Proposed Order Proposed Order

Original filename: yes

Electronic document Stamp:

[STAMP_dcecfStamp_ID=1029851931 [Date=5/2/2005] [FileNumber=957536-1]

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1:05-cv-10400 Notice will be electronically mailed to:

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5 IN THE UNITED STATES DISTRICT COURT
6
7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 In re VAXGEN SECURITIES LITIGATION. Master File No. C 03-1129 JSW

9
10 **CLASS ACTION**

11
12
13 **ORDER APPOINTING
THEODORE WILLIAMS AS
LEAD PLAINTIFF AND
APPROVING SELECTION OF
LEAD COUNSEL**

14
15 Currently before the Court are the motions by Carpenters Pension Trust Fund of Illinois
16 (the “Carpenters Pension Fund”); Theodore Williams (“Williams”); Alan and Jane Meinen,
17 Grady Coppage, and PMI Trading LLC (the “Coppage Group”); Stuart Jay Levy, the Moster
18 Corporation, Arnold L. Stanley, and Jasper L. McPhail (the “Levy/Stanley Group”); George
19 Koehl; and Alan and Jane Meinen, Grady Coppage, and Arnold Stanley (the “Coppage/Stanley
20 Group”) for appointment as lead plaintiff and approval of lead counsel in this putative class
21 action lawsuit alleging securities fraud against defendant Vaxgen, Inc.

22
23 **BACKGROUND**

24 Vaxgen, Inc. (“Vaxgen”) is a publically traded company engaged in the development and
25 commercialization of AIDSVAX, a vaccine designed to prevent infection or disease caused by
26 HIV, the virus that results in AIDS. Vaxgen was founded in 1995, and has worked in
27 partnership with Genentech, Inc. Genentech licensed the technology necessary for the
28 development and commercialization of AIDSVAX to Vaxgen, in exchange in relevant part for
Genentech receiving the rights to market any AIDS vaccine ever developed. Clinical trials of
AIDSVAX were run in North America and Europe and Thailand commencing in 1999.

1 During the class period from August 6, 2002 through February 26, 2003, Defendants
2 allegedly failed to disclose the exponentially increasing number of HIV strains and the results of
3 the clinical trials demonstrating the ineffectiveness of AIDSVAX. By the beginning of the
4 Class Period, the clinical trials in the United States were over 80% complete; however,
5 Defendants allegedly knew that the rate of HIV infection occurring in the clinical trials indicated
6 a statistically irrelevant efficacy rate compared to the infection rate being experienced by the
7 general population. Finally, Defendants allegedly failed to disclose that the efficacy rate being
8 experienced in the clinical trials would not meet FDA approval standards, nor the standards
9 required by the global medical communities, thereby making the vaccine not commercially
10 viable. On the evening of Sunday, February 23, 2003, Vaxgen announced the results of the U.S.
11 trials, disclosing that the “study did not show a statistically significant reduction of HIV
12 infection within the study population as a whole, which was the primary endpoint of the trial.”
13 (Cmplt. ¶ 4.) Plaintiffs contend that as a result of this partial disclosure, Vaxgen’s stock fell
14 50% to close at \$3 per share on February 24, 2003.

15 Plaintiffs allege that at the time Defendants released the trial results on February 24,
16 2003, Defendants claimed that despite failing to demonstrate the efficacy of the vaccine on U.S.
17 Caucasians, the trials demonstrated 30-40% efficacy rates for the U.S. Black and Asian
18 populations. Vaxgen stated that these results had less than a 1% chance of being random,
19 making it statistically significant. An article appearing in the *Wall Street Journal* on February
20 24, 2003, stated that the “results overall won’t lead the Food and Drug Administration to
21 approve the vaccine for use in the wider public, but the company hopes that further analysis, as
22 well as results from another trial being conducted in Thailand on injection drug users, may
23 prompt the agency to approve the vaccine for some ethnic minorities.” (Cmplt. ¶ 5.) Plaintiffs
24 allege that these corrective statements resulted in a rise in Vaxgen’s stock value to close to \$7
25 per share at the close of the market on February 24, 2003.

26 On February 26, 2003, however, Vaxgen released further information calling into
27 question the reliability of the February 24, 2003 reports because they had not taken the requisite
28 “penalties” to account for the fact that less than 500 of the 5000 clinical trial participants were

1 non-Caucasian, resulting in the analysis of a much smaller subset of data for non-Caucasians.
 2 Plaintiffs allege that as the earlier statements that AIDSVAX could prove useful for non-
 3 Caucasians were called into question, Vaxgen's stock declined resulting in a total loss in market
 4 cap since November 18, 2002 of approximately 85%.

5 Plaintiff Janice Whitkens filed an initial complaint on March 17, 2003, titled *Whitkens v.*
 6 *Vaxgen, Inc. et al.*, C 03-1129. The complaint set forth a federal securities class action on
 7 behalf of all purchasers of publically traded Vaxgen securities, alleging false and misleading
 8 statements and a scheme to defraud by the named defendants. On that same day, Plaintiffs
 9 published a notice of this first-filed complaint in *Business Wire*, advising members of the
 10 proposed class of their right to move to serve as lead plaintiff or plaintiffs no later than sixty
 11 days from the issuance of the notice.

12 Subsequently, twelve similar and related complaints were filed in this district. All
 13 thirteen related actions were consolidated following the Court's approved of a Stipulated
 14 Consolidation Order on May 19, 2003. The *Whitkens v. Vaxgen, Inc. et al.*, C 03-1129 JSW,
 15 case serves as the lead case and master file. Consistent with the framework envisioned by the
 16 PSLRA, Plaintiffs now request the Court to appoint a lead plaintiff to represent the class and to
 17 approve lead plaintiff's selection of counsel.

DISCUSSION

I. Lead Plaintiff

A. Standard

21 The selection of lead plaintiff and approval of lead counsel must comply with the
 22 requirements of the Private Securities Litigation Reform Act, 15 U.S.C. § 78u-4 ("PSLRA").
 23 The PSLRA provides that "the court shall appoint as lead plaintiff the member or members of
 24 the purported class that the court determines to be the most capable of adequately representing
 25 the interests of the class members." 15 U.S.C. § 78u-4(a)(3)(B)(I). Through a three-step
 26 process, the PSLRA provides a presumption that the most "adequate plaintiff" to serve as lead
 27 plaintiff is the "person or group of persons" that:

28 (aa) has either filed the complaint or made a motion in response to a notice;
 (bb) in the determination of the court, has the largest financial interest in the

1 relief sought by the class; and (cc) otherwise satisfies the requirements of
2 Rule 23 of the Federal Rules of Civil Procedure.

3 *Id.* at § 78u-4(a)(3)(B)(iii)(I); *see also In re Cavanaugh*, 306 F.3d 726, 729 (9th Cir. 2002)
4 (recognizing that the “most capable” plaintiff – and hence the lead plaintiff – is the one who has
5 the greatest financial stake in the outcome of the case, so long as he meets the requirements of
6 Rule 23.”). The selection process begins once the first plaintiff files an action and publicizes the
7 pendency of the action, the claims made, and the purported class period. 15 U.S.C. § 78u-
8 4(3)(A)(i)(II). The PSLRA is unequivocal and allows for no exceptions. *In re Enron Corp. Sec.*
9 *Litig.*, 206 F.R.D. 427, 454-55 (S.D. Tex. 2002); *see also In re Telxon Corp. Sec. Litig.*, 67 F.
10 Supp. 2d 803, 818 (N.D. Ohio 1999). “The plain language of the statutes precludes
11 consideration of a financial loss asserted for the first time in a complaint, or any other pleading,
12 for that matter, filed *after* the sixty (60) day window has closed.” *Id.* The intent of the
13 provisions is to ensure that the lead plaintiff is appointed at the earliest possible time and to
14 expedite the lead plaintiff process. *Id.* at 818-19. Thus, filing the complaint or a timely motion
15 is the threshold requirement to serve as lead plaintiff.

16 The second factor requires the court to choose the plaintiff “who has the greatest
17 financial state in the outcome of the case.” *In re Cavanaugh*, 306 F.3d at 729. The PSLRA
18 imposes a rebuttable presumption that the most capable plaintiff is the class member with the
19 largest financial interest in the relief sought by the class. *Wenderhold v. Cylink Corp.*, 188
20 F.R.D. 577, 584 (N.D. Cal. 1999). This determination is made by comparing the financial
21 stakes of the various plaintiffs through “accounting methods that are both rationally and
22 consistently applied” to establish which one has the most to gain from the lawsuit. *Id.* at 730.
23 Once such a plaintiff is identified, the PSLRA dictates that the Court evaluate whether that
24 plaintiff satisfies the requirements of Rule 23(a). *Id.*

25 Rule 23(a) requires that the plaintiff must assert claims or defenses that are typical of the
26 claims or defenses of the class and the court must find that the representative parties will fairly
27 and adequately protect the interests of the class. *In re Cavanaugh*, 306 F.3d at 730 n.5 (citing
28 Fed. R. Civ. P. 23(a)). Although the inquiry at this stage of the litigation is not as searching as
the one triggered by a motion for class certification, the proposed lead plaintiff must make at

1 least a preliminary showing that it meets the typicality and adequacy factor. *Cf. In re*
 2 *Microstrategy Inc. Securities Litigation*, 110 F. Supp. 2d 427, 435 (E.D. Va. 2000). Typicality
 3 is achieved where the named plaintiff's claims arise from the same event or course of conduct
 4 that gives rise to the claims of the other class members and the claims are based on the same
 5 legal theory. *Hanon v. Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (citing *Schwartz*
 6 *v. Harp*, 108 F.R.D. 279, 282 (C.D. Cal. 1985)). The adequacy requirement is met if there are
 7 no conflicts between the representative and class interests and the representative's attorneys are
 8 qualified, experienced, and generally able to conduct the litigation. Fed. R. Civ. P. 23(a)(4); *see*
 9 *also Staton v. Boeing Co.*, 327 F.3d 938, 957 (9th Cir. 2003). The plaintiff with the largest
 10 financial stake in the controversy, who satisfies the typicality and adequacy requirements is
 11 presumed to be the most adequate plaintiff. *In re Cavanaugh*, 306 F.3d at 730.

12 The third step of the process is to "give other plaintiffs an opportunity to rebut the
 13 presumptive lead plaintiff's showing that it satisfies Rule 23's typicality and adequacy
 14 requirements." 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II); *see also In re Cavanaugh*, 306 F.3d at 730.
 15 The presumption of adequacy may be rebutted upon proof that the presumptively most adequate
 16 individual or entity does not satisfy Rule 23's requirements. 15 U.S.C. § 78u-4(a)(3)(B)(iii)(II);
 17 *see also In re Cavanaugh*, 306 F.3d at 729 n.2. If the presumption is defeated, then the court
 18 must turn to the plaintiff with the next highest financial stake in the litigation and start the
 19 process over, repeating it sequentially until all challenges have been exhausted.

20 **B. The Competing Motions**

21 There are a number of individuals and entities vying for appointment as lead plaintiff in
 22 this action: (1) Carpenters Pension Trust Fund of Illinois (the "Carpenters Pension Fund"); (2)
 23 Theodore Williams ("Williams"); (3) Alan and Jane Meinen, Grady Coppage, and PMI Trading
 24 LLC (the "Coppage Group"); (4) Stuart Jay Levy, the Moster Corporation, Arnold L. Stanley,
 25 and Jasper L. McPhail (the "Levy/Stanley Group"); (5) George Koehl; and (6) Alan and Jane
 26 Meinen, Grady Coppage, and Arnold Stanley (the "Coppage/Stanley Group"). In addition, the
 27 Rosenthal Group and James Reinschmidt initially filed motions for appointment; however, each
 28 subsequently either withdrew the motion from consideration or abandoned the motion. A close

1 review of the competing groups reveals that some contain overlapping members, namely the
 2 Coppage Group, the Levy/Stanley Group, and the Coppage/Stanley Group. Despite each having
 3 filed timely initial motions and statements of intent to file oppositions to the other competing
 4 motions, certain members of the Coppage Group and the Levy/Stanley Group apparently
 5 abandoned ship without explanation. The remaining members of the respective groups left
 6 afloat included PMI Trading from the original Coppage Group, and Stuart Jay Levy, the Moster
 7 Corporation, and Jasper L. McPhail from the original Levy/Stanley Group. Following the close
 8 of the sixty-day window, the disbanded members reconstituted themselves into the newly
 9 formed Coppage/Stanley Group.¹ As a result of this last minute reformation, the
 10 Coppage/Stanley Group would have the largest financial interest in the outcome of the case with
 11 combined losses totaling \$585,383.66. The other lead plaintiff movants oppose the appointment
 12 of the Coppage/Stanley Group.

13 As discussed above, the threshold requirement to serve as lead plaintiff is the timely
 14 filing of a motion for appointment. Here, notice that the first complaint had been filed was
 15 published on March 17, 2003. Pursuant to the PSLRA, the parties had sixty days from March
 16 17, 2003, to file their competing motions, *see* 15 U.S.C. § 78u-4(3)(A)(i)(II); accordingly, the
 17 window for filing motions for appointment as lead plaintiff closed on or about May 16, 2003.
 18 The PSLRA is unequivocal and allows for no exceptions, all motions for lead plaintiff must be
 19 filed within sixty days of the published notice for the first-filed action. *In re Enron Corp. Sec.*
 20 *Litig.*, 206 F.R.D. 427, 454-55 (S.D. Tex. 2002); *see also In re Telxon Corp. Sec. Litig.*, 67 F.
 21 Supp. 2d 803, 818 (N.D. Ohio 1999). “The plain language of the statutes precludes
 22 consideration of a financial loss asserted for the first time in a complaint, or any other pleading,

23
 24 ¹ The newly aggregated Coppage/Stanley Group made its first appearance on the
 25 scene by way of a Memorandum in Opposition to All Other Motions Seeking Appointment of
 26 Lead Plaintiff and Approval of Lead Counsel filed on August 29, 2003. Neither the Coppage
 27 Group nor the Stanley/Levy Group filed motions to withdraw from consideration of
 28 appointment until several days after the Hearing on these motions. Even more troubling is
 representation by three law firms, each already retained to represent the members of the
 former Coppage and Stanley/Levy groups. Again, the conflict of interest created by this
 jockeying is stark.

1 for that matter, filed *after* the sixty (60) day window has closed.” *In re Telxon Corp.*, 67 F.
 2 Supp. 2d at 818.

3 The Coppage/Stanley Group acknowledge that they originally filed separate and
 4 competing motions for appointment, but state that “in light of the competing motions, Movants
 5 believe that by pooling theirs resources together they are acting in the best interests of plaintiffs”
 6 and the other class members. (Coppage/Stanley Opp. Br. at 1.) They offer no further reasons
 7 for why it would be beneficial to the class for them to collectively act as lead plaintiff. By
 8 contrast, the Court can foresee a number of reasons why this new arrangement would be less
 9 than beneficial, not the least of which are the shifting memberships and alliances resulting in the
 10 abandonment of the old group members, the failure to provide any explanation regarding how
 11 the conflict between the old and the new groups has been resolved, and finally, the appearance
 12 that the Group was manufactured in an effort to have its members designated as lead plaintiffs,
 13 and more importantly its counsel designated as class counsel.² See *Bowman v. Legato Systems,*
 14 Inc., 195 F.R.D. 655, 658 (N.D. Cal. 2000) (rejecting proposed lead plaintiff group based in part
 15 on the appearance that members of the group “were hand-picked” by a law firm “for the sole
 16 purpose of obtaining lead plaintiff status,” which runs afoul of the stated goals of the PSLRA);
 17 *Switzenbaum v. Orbital Sciences Corp.*, 187 F.R.D. 246, 250-51 (E.D. Va. 1999) (finding that
 18 due to a group’s ever-changing membership, the group “cannot credibly claim to offer
 19 adequate representation to others”). Allowing potential lead plaintiffs to “manipulate the size of
 20 their financial loss by enlarging the class period or adding additional persons to a ‘group’ in
 21 supplemental filings . . . would effectively render the strict timeliness set forth in the PSLRA
 22 meaningless, and would nullify Congress’s attempt to expedite the lead plaintiff appointment
 23 process.” *Id.* at 818. As in this case, both the confusion caused by overlapping group
 24 memberships and the consequent greater loss asserted by the newly-formed group late in the
 25 briefing schedule invited additional rounds of replies and sur-replies up to and even following
 26 the Hearing on the underlying motions. The Court’s consideration of the competing arguments

28 ² Movants concede that they were “introduced to each other” during a telephone
 conference arranged by their lawyers after all of the initial applications were filed.
 (Coppage/Stanley Opp. Br. at 9).

1 then added to the delay in ruling on the motions for appointment of lead
2 plaintiff. To entertain such manipulations would surely lead to future attempts by parties to
3 thwart the intent and express terms of the PSLRA. The Court finds that the Coppage/Stanley
4 Group is ineligible for appointment as lead plaintiff in this matter.

5 Of the timely filed motions, Theodore Williams has the largest financial interest at stake,
6 claiming \$535,069 in injury. None of the other parties disputes this claim; however, they have
7 attempted to rebut the presumption of adequacy. The Carpenters Pension Fund contends that
8 Mr. Williams has not established that he has any experience managing and directing lawyers,
9 nor has he demonstrated any level of investing sophistication. Mr. Williams counters that he is
10 a sophisticated investor, with approximately fifty years of investing experience with a
11 substantial portion of his net worth invested, and a successful businessman for thirty-two years.
12 None of the other would-be lead plaintiffs has pointed to anything to rebut effectively Mr.
13 Williams' entitlement to lead plaintiff status.

14 Mr. Williams has met his statutory obligation by providing a sworn certificate attesting
15 to his losses in Vaxgen securities and his desire to represent the class. He has provided a
16 supplemental declaration describing his professional background as a partner and consultant for
17 Theodore Williams Construction company, his knowledge of securities trading, and his
18 understanding of the duties incumbent on a lead plaintiff. The claims of Mr. Williams are
19 typical of the claims of other plaintiffs; all claims based on similar types of alleged
20 misrepresentations and omissions. There has been no argument from any of the movants that
21 Mr. Williams does not meet the typicality requirement. The Court finds that Mr. Williams
22 meets the adequacy and typicality requirement, and appoints Theodore Williams as the Lead
23 Plaintiff in this Action.

24 **III. Lead Counsel**

25 The PSLRA provides that once the most adequate plaintiff is selected, the "most
26 adequate plaintiff shall, subject to approval of the court, select and retain counsel to represent
27 the class." 15 U.S.C. § 784-u(a)(3)(B)(v). The decision to approve counsel selected by the lead
28 plaintiff is a matter within the discretion of the district court. *See Wenderhold*, 188 F.R.D. at

1 587 (holding that the court is charged with ensuring that the class receives quality representation
2 at a fair price and cannot, therefore, simply defer to lead plaintiff's choice of counsel); *Yousefi v.*
3 *Lockheed Martin Corp.*, 70 F. Supp. 2d 1061, 1071-72 (C.D. Cal. 1999) (holding that the
4 legislative history of the PSLRA reveals that Congress vested the district courts with the
5 authority to appoint lead counsel); *see also Vincelli v. National Home Health Care Corp.*, 112
6 F. Supp. 2d 1309, 1315 (M.D. Fla. 2000) (stating that, in the exercise of its discretion regarding
7 approval of lead counsel, the court must inquire about the "appropriateness of the appointment
8 of more than one law firm").

9 Mr. Williams has selected and retained the law firm of Schriffin & Barroway, LLP as
10 lead counsel, and has selected the law firm of Green & Jigarjian LLP as liaison counsel. Both
11 appear to have the requisite ability and expertise to prosecute and manage this litigation
12 effectively. The Court approves Mr. Williams' retention of Schriffin & Barroway, LLP and
13 appoints them as Lead Counsel for the plaintiff class, and further approves of and appoints
14 Green & Jigarjian LLP as Liaison Counsel, provided that there is no duplication of attorneys'
15 services and that the use of liaison counsel does not in any way increase attorneys' fees and
16 expenses.

17 Lead Plaintiff's Counsel shall have authority to speak for, and enter into agreements on
18 behalf of, plaintiffs and putative class members in all matters regarding litigation including, but
19 not limited to, pretrial procedures, discovery, motion practice, trial, and settlement negotiations.
20 Lead Plaintiff's counsel shall manage the prosecution of this litigation in an efficient and orderly
21 fashion to avoid duplicative or unproductive activities. Defendants' counsel may rely upon
22 agreements made with Lead Plaintiff's Counsel, and all such agreements shall be binding on all
23 plaintiffs. Lead Plaintiff's Counsel additionally shall be responsible for coordination of all
24 activities and appearances on behalf of plaintiffs and for dissemination of notices and orders,
25 and shall be responsible for communications with the Court. Finally, Lead Plaintiff's Counsel
26 shall maintain a master service list of all parties and counsel.

27 **IV. Pleadings and Motions**

28 If related actions are subsequently filed in or transferred to this District, Defendants are

1 not required to respond to the complaint in any action consolidated into this action, other than a
2 consolidated complaint or a complaint designated as the operative complaint. Lead Plaintiff
3 shall designate the instant Complaint as the operative complaint or file an amended complaint
4 within thirty (30) days after the filing of this Order, unless otherwise agreed upon by the parties.
5 Defendants shall respond to the operative complaint within thirty days after designation or
6 service, unless otherwise agreed upon by the parties. If Defendants file any motions directed at
7 the consolidated complaint, the opposition and reply briefs shall be filed within thirty days and
8 forty-five days, respectively, of that response, unless otherwise agreed upon by the parties.
9 Defendants shall take this modified briefing schedule into consideration when noticing any
10 motions for hearing on this Court's calendar. The parties shall serve all papers on each other by
11 hand, by overnight delivery, or (by prior agreement) by facsimile, unless otherwise agreed upon
12 by the parties. Counsel for the parties shall notify their clients of their document preservation
13 obligations pursuant to the federal securities laws and the Local Rules.

14 Any counsel of record for a party in this action who is not a member of the Bar of this
15 District shall apply to appear *pro hac vice* in accordance with the Civil Local Rule 11-3.

16 CONCLUSION

17 For the foregoing reasons, the Court GRANTS the Motion to Appoint Theodore
18 Williams as Lead Plaintiff and for Appointment of Lead Counsel pursuant to Section 21 D
19 (a)(3)(B) of the Securities Exchange Act of 1934.

20 This Order closes docket nos. 14, 16, 21, 23, 24, 25, 38, 68 and 83.

21 **IT IS SO ORDERED.**

23 Dated: April 14, 2004

24 /s/ Jeffrey S. White
25 JEFFREY S. WHITE
26 UNITED STATES DISTRICT JUDGE
27
28